

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MIDDENDORF SPORTS, a Maryland Sole Proprietorship,)	Case No.: 8:17-cv-00011-JMG-SMB
)	
Plaintiff,)	DEFENDANT TOP RANK, INC.’S
)	BRIEF IN SUPPORT OF
vs.)	UNOPPOSED MOTION
)	TO STAY EXECUTION OF
TOP RANK, INC., a Nevada corporation, and TERRENCE CRAWFORD, an individual,)	JUDGMENT [ECF No. 161]
)	
Defendant.)	
)	

Comes now the Defendant Top Rank, Inc. (“Top Rank”), by and through its undersigned counsel, pursuant to NECivR 7.1(a)(1), and submits the following Brief in Support of Plaintiff’s Motion to Stay Execution of Judgment [ECF No. 161].

On April 1, 2019, the Court entered judgment for Plaintiff Middendorf Sports and against Defendant Top Rank, Inc (“Top Rank”) in the amount of \$520,296.87, plus prejudgment interest calculated pursuant to NRS 99.040.¹ *See* Judgment [ECF No. 159]. Top Rank is appealing the Court’s ruling to the United States Court of Appeals for the Eighth Circuit and has filed its Notice of Appeal [ECF No. 160] concurrently herewith. Accordingly, pursuant to FRCP 62(b), Top Rank hereby moves to stay execution of the judgment pending appeal upon the posting of a supersedeas bond in the amount of \$575,000.

Pursuant to FRCP 62(b), “[a]n appellant may request and obtain a stay of judgment pending appeal as a matter of right upon posting a supersedeas bond.” *New Access Commc’ns LLC v. Qwest Corp.*, 378 F.Supp.2d 1135, 1138 (D. Minn. 2005) (citing *Am. Mfrs. Mut. Ins. Co. v. Am*

¹ As of April 16, 2019, the total amount of the judgment plus prejudgment interest calculated pursuant to NRS 99.040 was approximately \$570,182.15.

Broadcasting-Paramount Theatres, Inc., 87 S.Ct. 1, 3 (1966)); *Knutson v. AG Processing, Inc.*, 302 F.Supp.2d 1023, 1032-33 (N.D. Iowa 2004) (listing cases for the proposition that a party may post a supersedeas bond and stay execution of a monetary judgment pending appeal as a matter of right). “The general rule is for the district court to set a supersedeas bond in the full amount of the judgment plus interest, costs, and damages for delay.” *Qwest*, 378 F.Supp.2d at 1138.

Here, Middendorf Sports does not oppose Top Rank’s motion to stay execution of the judgment pending appeal and has agreed to a bond amount of \$575,000. As such, Top Rank respectfully requests that the Court grant its Motion to Stay Execution of Judgment [ECF No. 161] and set a supersedeas bond amount of \$575,000.

DATED: April 26, 2019

TOP RANK, INC.

By /s/ **Philip R. Erwin**

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that service of the foregoing was served on the 26th day of April, 2019 via the Court's CM/ECF electronic filing system addressed to the following parties on the e-service list:

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